



New Rules for Collectors Performing DOT Collections!!!!

1. On June 25, 2008, the U. S. Department of Transportation (DOT) revised the 49 CFR part 40 regulations to make it harder for DOT regulated employees to beat a Federally required drug test. The Final Rule effective date is August 25, 2008.

2. The DOT also published revised Collector Guidelines which are now available on the DOT website at <http://www.dot.gov/ost/dapc/news.html> and at <http://www.dot.gov/ost/dapc/udsc.html> .

3. Questions on these Regulations and Guidelines should be directed to the DOT either by telephone at 202-366-3784, by fax at 202-366-3897, or by email to ODAPCWebMail@dot.gov. Neither Verifications nor the Department of Interior is able to provide specific guidance on the interpretation or implementation of the new rules to collectors or collections sites.

4. New DOT Regulations and Guidelines on Direct Observation Collections

Effective August 25, 2008, observed collections will afford less privacy in order to guard against employee use of items designed specifically to beat the testing process.

a. Directly observed collections will continue to occur only when there is a specific reason to believe that an employee may be attempting, or have sufficient reason, to evade the testing process.

b. Observed collections will now be required, rather than optional, for all return-to-duty and follow-up drug testing.

c. Items such as prosthetic devices designed to carry clean urine must now be checked for by observers with both male and female donors. The observer will have the employee raise and lower clothing, and then put it back into place for the observed collection.

The revised DOT Urine Collection guidelines say that effective August 25, 2008:

The observer must request the employee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist, just above the navel; and lower clothing and underpants to mid-thigh; and to show the observer – by turning around – that the employee does not have a prosthetic device. After the observer has determined that the employee does not have such a

device, the observer may permit the employee to return clothing to its proper position and then conduct the observed collection.

Note: There are three basic types of devices employees could “wear.” [Of course, there could be other devices, but these are currently the basic three devices]:

1. One device has a long plastic tube connected to a bottle containing heated urine.
2. Another device consists of a short plastic tube attached to a battery-heated plastic bag.
3. One device goes a step further by replacing the tube with very realistic prosthetic genitalia designed to match the employee’s skin tone.

5. New DOT Regulations and Guidelines on Refusals

Effective August 25, 2008, the following collection issues have been added to the regulation and **must** be treated by the collector as refusals to test. Some of these were part of previous DOT interpretations of 49 CFR 40.191.

- The employee **refuses to wash his or her hands** after being directed to do so.
- **The employee admits to the collector** that he or she **adulterated or substituted** their specimen.***
- The employee **behaves in a confrontational way that disrupts** the collection process.***

*** In either of these refusal situations, the collector **discards any specimen** the employee provided previously and **notifies the DER** as soon as possible.

With respect to **direct observation collections**, the following situations have been added as refusals to test:

- The employee fails **to follow the observer’s instructions to raise and lower their clothing and to turn around** to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.
- The employee **possesses or wears a prosthetic or other device** that could be used to interfere with the collection process.

6. **Collectors should patiently explain the new regulations to affected employees and work with the employee to avoid a refusal event whenever possible.**